

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 21, 2005

IN RE:

PETITION OF TENNESSEE WASTEWATER
SYSTEMS, INC. TO AMEND ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY

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DOCKET NO. 04-00393

ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

This matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a Hearing held on February 28, 2005 to consider the *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* (the "*Petition*") requesting that the Authority amend its service area to include a portion of Robertson County, Tennessee known as the Huffines Development.

Legal Standard for Granting Certificate of Public Convenience and Necessity

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Authority. The procedure for obtaining such approval is outlined in Tenn. Code Ann. § 65-4-201(a), which states in pertinent part as follows:

No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator

thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate. . .

Background

On April 6, 1994, Tennessee Wastewater Systems, Inc.¹ (“TWS” or “Company”) received a Certificate of Convenience and Necessity (“CCN”) in Docket No. 93-09040 from the Tennessee Public Service Commission to provide wastewater service to the Oakwood Subdivision in Maury County. Since that time, through various other dockets, the Company has been granted approval to expand its service territory to include other areas in Tennessee. The Company’s principal office is located in Nashville, Tennessee.

The Petition

On November 5, 2004, TWS filed the *Petition* requesting that its service area be expanded to include a portion of Robertson County, Tennessee known as the Huffines Development. TWS attached several letters to its *Petition* in support of its request to expand its service area. First, TWS attached a letter from the owner/developer of the property stating that the property’s soils are inadequate to allow for septic systems to accommodate the proposed development.² Second, TWS attached letters from each of the three other potential wastewater service providers acknowledging the Company’s request to provide sewer service to the Huffines Development, stating that each does not provide service to the area, and stating that each has no immediate intention, desire or plan to do so.³ TWS filed the *Pre-Filed Direct Testimony Of Charles Pickney, Jr* on February 14, 2005.

¹ Tennessee Wastewater Systems, Inc was formerly known as On-Site Systems, Inc. This name change was effected by the TRA’s order of February 19, 2004, in Docket No. 03-00518

² See *Petition*, (unnumbered attachment) (November 5, 2004) Letter from Bobby Huffines to Charles Pickney (November 3, 2004)

³ See *Petition*, (unnumbered attachments) (November 5, 2004) Letter from M. Timothy Williams, City Administrator, City of White House to Keith Townsend, Tennessee Wastewater Systems, Inc. (October 21, 2004), Letter from Regina Gaddis, Mapping Coordinator, White House Utility District to Keith Townsend, Tennessee Wastewater Systems, Inc. (October 4, 2004), and (unaddressed) Letter from Howard R. Bradley, County Executive, Robertson County (August 6, 2004)

Rate Schedules

The Company also attached rate schedules listing the Company's commercial sewer rates (with and without food service), a billing summary of the Company's residential sewer rates, a listing of the Company's sewer systems with commercial customers, and a service area map showing the proposed location of the Huffines Development.⁴ The attached rate schedules comport with the rate schedule approved by the TRA in Docket No. 99-00393.

The monthly residential rate will be thirty-five dollars and eleven cents (\$35.11). Other residential fees include a five percent (5%) fee for non-payment, a disconnection fee of ten dollars (\$10.00), a reconnection fee of fifteen dollars (\$15.00), a returned check fee of twenty dollars (\$20.00), and an annual access fee of eighty-four dollars (\$84.00).

The monthly commercial rate, *without food service*, will be based on the design flow expected from the type of establishment being served. A minimum of seventy-five dollars (\$75.00) per month will be charged for the first 300 gallons per day design flow expected (except off-site⁵ charges which will be a minimum of seventy-three dollars (\$73.00) plus pass through costs). For each additional 100 gallons per day of design flow expected, up to 1,000 gallons per day, an additional charge of fifteen dollars (\$15.00) per month per 100 gallons will be applied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply:

<u>Treatment</u>	<u>Drip/Spray Irrigation</u>	<u>Point Discharge</u>	<u>Off Site</u>
Sand-Gravel Filter	\$140.00	\$165.00	N/A
Lagoon	\$116.00	\$140.00	N/A
Off Site	N/A	N/A	Pass-Through Costs + \$73.00

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will

⁴ *Petition*, (unnumbered attachments) (November 5, 2004)

⁵ "Off site" means the treatment and disposal are performed by another entity

be one hundred sixteen dollars (\$116.00) per 1,000 gallons of daily flow. Additional surcharges will apply when expected design flows are exceeded. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will apply:

<u>Excess water usage</u>	<u>Surcharge</u>
1 gallon to 1,000 gallons above expected design flow	\$175.00
1,001 gallons to 2,000 gallons above expected design flow	\$200.00
Over 2,000 gallons above expected design flow	\$200.00/1000 gallons

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage. The customer will pay capital costs associated with increasing the capacity of the system.

The monthly commercial rate, *with food service*, will be based on the design flow expected from the type of establishment being served. A minimum of one hundred dollars (\$100.00) per month will be charged for the first 300 gallons per day design flow expected (except off-site charges which will be a minimum of ninety-four dollars (\$94.00) plus pass through costs). For each additional 100 gallons per day of design flow expected, up to 1,000 gallons per day, an additional charge of eighteen dollars (\$18.00) per month per 100 gallons will be applied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply:

<u>Treatment</u>	<u>Drip/Spray Irrigation</u>	<u>Point Discharge</u>	<u>Off Site</u>
Sand-Gravel Filter	\$170.00	\$192.00	N/A
Lagoon	\$142.00	\$163.00	N/A
Off Site	N/A	N/A	Pass-Through Costs + \$94.00

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will be one hundred forty-two dollars (\$142.00) per 1,000 gallons of daily flow. Additional surcharges will apply when expected design flows are exceeded. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will

apply:

<u>Excess water usage</u>	<u>Surcharge</u>
1 gallon to 1,000 gallons above expected design flow	\$210.00
1,001 gallons to 2,000 gallons above expected design flow	\$220.00
Over 2,000 gallons above expected design flow	\$220.00/1000 gallons

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage. The customer will pay capital costs associated with increasing the capacity of the system.

Other commercial fees include a five percent (5%) fee for non-payment, a disconnection fee of ten dollars (\$10.00), a reconnection fee of fifteen dollars (\$15.00), a returned check fee of twenty dollars (\$20.00). A franchise fee of three percent (3%) will also apply in the City of Coopertown.

The February 28, 2005 Hearing

Pursuant to Tenn. Code Ann. § 65-4-201(a) public notice of the Hearing in this matter was issued by the Hearing Officer on February 1, 2005. No person sought intervention prior to or during the Hearing. At the Hearing held on February 28, 2005, Mr. Charles Pickney, Jr., President of TWS, participated, presented testimony, and was subject to examination by the Panel. Mr. Pickney testified that TWS proposes to serve 45 homes in the Huffines Development.⁶ He also stated that, "The company does have the management, technical, and financial ability to provide wastewater services to this subdivision."⁷ Mr. Pickney stated further that he has received a "draft permit" from the Tennessee Department of Environment and Conservation ("TDEC") pending final approval from that agency for the Company's operation of a system serving the Huffines Development.⁸

⁶ Transcript of Proceedings, p 82 (February 28, 2005)

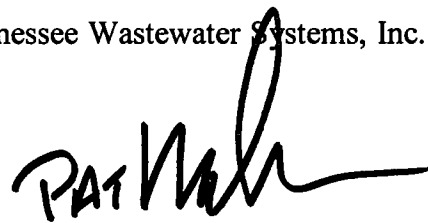
⁷ *Id*

⁸ *Id*

Upon the presentation of the Company's proof, the evidentiary record as a whole, and in light of the legal standard set forth in Tenn. Code Ann. § 65-4-201(a), Chairman Pat Miller, Director Deborah Taylor Tate and Director Ron Jones voted unanimously to grant provisional approval of the *Petition* subject to receipt of a final approved permit from TDEC evidencing its approval of the Company's application to provide service to the Huffines Development.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include the Huffines Development in Robertson County, Tennessee, as shown in the map attached to the *Petition* is provisionally approved subject to receipt of a final approved permit from the Tennessee Department of Environment and Conservation.
2. The Petitioner's rates for wastewater service shall be as listed in the rate schedules filed with the *Petition* and as set forth in this Order.
3. The provisional approvals granted herein shall become final upon the filing in this Docket of a copy of the final approved permit evidencing the Tennessee Department of Environment and Conservation's approval of Tennessee Wastewater Systems, Inc.'s application to provide service to the Huffines Development.



Pat Miller, Chairman



Deborah Taylor Tate, Director



Ron Jones, Director